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11-6308

OLC 79-3173/1
27 November 1979

MEMORANDUM FOR THE RECORD

SUBJECT: Fiscal Year 1981 Intelligence Authorization Bill

REFERENCE: OLC 79-3173 (8 November 1979)

1. On 26 November representatives of concerned components met with the OLC Legislation Division to discuss possible use of the FY 1981 Intelligence Authorization Bill to remedy certain financial, administrative, and logistical problems. These problems are listed and explained in Reference Memorandum. The decisions reached at the 26 November meeting are set out below.

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-- The "Space" problem: The Office of Logistics indicated that it did not want to propose legislation which would exempt Agency buildings from GSA control, and did not want to attempt to obtain report language supporting DCI use of Section 8 authority in the "space" area. DDS&T and NPIC representatives indicated that their offices might wish to propose legislation designed to free from GSA control, but the undersigned was notified on 27 November that these offices would not be prepared to do so in time for the inclusion of such a proposal in the authorization bill.

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-- Retirement Relocation Benefit: An extended discussion revealed that the OGC position on the existence of authority to pay this benefit remains unclear. It was agreed that inclusion of a reference to payment of the benefit in the Agency's budget justification package could not, in and of itself, constitute a congressional grant of authority for payment. It was further agreed that, pending a definitive determination by OGC as to whether or not authority for payment of the benefit could

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be found in Section 8 of the CIA Act or elsewhere, FY 1981 budget justification material would once again make reference to the "present practice" of paying the benefit, but no reference to the benefit would be made in the authorization bill itself. It was noted, however, that this was by no means a permanent solution to the problem.

-- Agency-funded telephone service/problem re 31 U.S.C. 679: Office of Communications representatives indicated that they continued to be in contact with OGC on this problem. OGC indicated that a decision would be made shortly as to whether legislation would be necessary. It was noted that inclusion in budget justification materials of a reference to the Agency's expenditure of funds in connection with the provision of telephone service in the homes of certain senior officials would not, by itself, constitute an acceptable solution.

-- Reserve for Contingencies: The Offices of Comptroller and Finance agreed that there was no need for inclusion of specific language related to procedures for authorization and appropriation of funds for the Agency's Reserve. It was also agreed not to make the Reserve a specific line item in the unclassified authorization bill itself.

-- Equalization of CIA and NSA benefits: It was noted that NSA had apparently decided to pursue legislation allowing it to adopt benefits equal to those available to State Department officers. The undersigned indicated that NSA appeared to have decided to pursue this matter outside the context of the Intelligence Authorization Bill. The undersigned will confirm this with NSA.

-- Offset of adverse fluctuations in foreign currency exchange rates: Representatives of the Offices of Comptroller and Finance stated that their offices wanted to examine how the provision worked for the Department of State in its first year of operation before recommending its inclusion in the Intelligence Authorization Bill. The issue will thus be reexamined next year for the FY 1982 Bill.

-- Drug Enforcement Agency membership in NFIP: The consensus was that although the issue does not appear to have been definitively decided by the DCI and the Attorney General, we should not again attempt to include DEA in the bill. It was noted that specific reference to DEA had been omitted from the latest versions of Charter Legislation.

-- Legislation to authorize the Agency to receive gifts and bequests: It was noted that OLC was currently working on this subject, and that it might well be appropriate to include such a provision in the authorization bill. OGC representatives indicated, however, that their Office had not yet determined with certainty whether or not such legislation was needed.

2. It was agreed that the Bill would once again contain language providing for anticipated salary increases, as well as language to put the Agency into technical compliance with the Congressional Budget and Accounting Act. It was recognized that the SSCI and HPSCI would probably again delete the latter, which would provide authorization for "such sums as may be necessary" for FY 1982. Inclusion of the language is, however, required by OMB.

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3. Individuals having action responsibility for items mentioned above which remain outstanding are once again reminded that the deadline for submission of the draft bill to the Office of Management and Budget is 15 December. Material proposed to be included in the draft bill must, therefore, be transmitted to the undersigned not later than COB Thursday, 6 December.

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Chief, Legislation Division

See Distribution on next page.

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WASHINGTON, D.C. 20505

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Legislative Counsel

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OLC 79-2082/d

Mr. James M. Frey
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Frey:

Enclosed for your information is a copy of the proposed Central Intelligence Agency and Intelligence Community Legislative Program for the Second Session of the 96th Congress. In accordance with Office of Management and Budget Circular No. A-19, revised, the Program has been submitted by the Director of Central Intelligence as part of the consolidated National Foreign Intelligence Program budget.

Sincerely,

ILLEGIB

Frederick P. Hitz

Enclosure

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CENTRAL INTELLIGENCE AGENCY

AND

INTELLIGENCE COMMUNITY

PROPOSED LEGISLATIVE PROGRAM FOR THE SECOND SESSION
OF THE 96th CONGRESS

PART I -- PRESIDENT'S PROGRAM PROPOSALS

96/2 - 1: Safeguarding of Intelligence Capabilities
Legislation

This proposal encompasses three legislative initiatives designed to implement the President's expressed determination to "increase our efforts to guard against damage to our crucial intelligence sources and our methods of collection, without impairing civil and constitutional rights."

A. Protection of Intelligence Identities

Draft legislation to provide criminal penalties for the unauthorized disclosure of information identifying certain individuals engaged or assisting in foreign intelligence activities was forwarded to the Office of Management and Budget by the Director of Central Intelligence (DCI) on 13 July 1979 and awaits Administration clearance. Meanwhile, the entire membership of the House Permanent Select Committee on Intelligence (HPSCI) has introduced the "Intelligence Identities Protection Act of 1979" (H.R. 5615), which is a carefully drafted and narrowly drawn Bill containing elements similar to the DCI's proposal. The Committee plans to hold hearings on the Bill early in 1980.

B. Freedom of Information Legislation

The DCI's proposal to amend Section 6 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403g) so as to place certain designated Intelligence Community files outside the search and review provisions of the Freedom of Information Act was forwarded to the Office of Management and Budget on 13 August 1979 and awaits Administration clearance. The House Permanent Select Committee on Intelligence has already held hearings on this issue, and Section 2 of H.R. 5129 is similar to the DCI's proposal. The House Government Operations Subcommittee on Government Information and Individual Rights plans to hold hearings late in 1979 or early in 1980.

C. "Graymail" Legislation

The "Classified Information Procedures Act" establishes protective rules governing the use of classified information in connection with espionage and other criminal cases. The HPSCI Subcommittee on Legislation will mark up H.R. 4745 (the Administration's Bill) and H.R. 4746 (the Committee's Bill) late in 1979. The legislation is also pending in the House and Senate Judiciary Committees.

96/2 - 2: Intelligence Charter Legislation

Reintroduction of Charter Legislation (S. 2525 in the 95th Congress) is dependent upon the outcome of ongoing negotiations between the Administration and the Senate Select Committee on Intelligence. The Director of Central Intelligence continues to support the Administration's commitment to cooperate with the Congress in this area.

PART II -- OTHER PROPOSALS

96/2 - 3: Fiscal Year 1981 Intelligence Authorization Bill

Annual authorization of appropriations for the National Foreign Intelligence Program has now become institutionalized. The problem which arose in FY 1979 with regard to the classified annex to the joint explanatory statement of the Committee of Conference was satisfactorily remedied in the FY 1980 Act by the use of a separate classified "Schedule of Authorizations," which accompanies the Conference Report and lists the amounts authorized to be appropriated. The DCI will shortly submit to the Office of Management and Budget a proposed Fiscal Year 1981 Intelligence Authorization Bill for transmittal to the Congress.

96/2 - 4: Death Gratuity Legislation

This Administration-approved proposal to provide a death gratuity benefit to the survivors of intelligence officers killed overseas as a result of hostile or terrorist activity, or in connection with an intelligence activity having a substantial element of risk, has been introduced in both the House (H.R. 5666) and the Senate (S. 1930) with strong bipartisan support.

96/2 - 5: Intelligence Personnel Protection Act

This proposal to provide criminal penalties for threats or actual acts of violence against CIA personnel or persons for whose security the Agency is responsible was forwarded to the Office of Management and Budget on 10 October 1979 and awaits Administration clearance.

96/2 - 6: CIA Firearms Authority

Hearings on this Administration-approved amendment to Section 5(d) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403g) were held by the House Permanent Select Committee on Intelligence during its consideration of the FY 1980 Intelligence Authorization Bill. The amendment is designed to enhance the DCI's ability to fulfill his statutory responsibility for the protection of intelligence sources and methods.

96/2 - 7: Senior Intelligence Services for the National Security and Defense Intelligence Agencies

NSA's proposal for statutory authority to create a Senior Executive Service-type Senior Service has been approved and forwarded to the Congress. DIA's proposal awaits Administration clearance.

EXPIRING LAWS - CENTRAL INTELLIGENCE AGENCY

P.L. 96-100, the "Intelligence and Intelligence-Related Activities Authorization Act for Fiscal Year 1980" will expire on 30 September 1980. The Law should be extended via enactment of a Fiscal Year 1981 Intelligence Authorization. See item 96/2 - 3 in Part II of the Central Intelligence Agency and Intelligence Community Proposed Legislative Program for the Second Session of the 96th Congress.

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